

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

CIVIL ACTION NUMBER: _____

JESSICA A. JAMIESON AND ALAINA
R. WILLIAMS,

PLAINTIFF,

VS.

JAMES TIMOTHY SIKES AND NGL &
EROSION CONTROL GROUP, LLC,

DEFENDANTS

JAMES TIMOTHY SIKES AND AMJ
CONTRACTING LLC D/B/A NGL &
EROSION CONTROL GROUP, LLC's
NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, ANDERSON DIVISION; THE COURT OF COMMON PLEAS FOR ANDERSON COUNTY, SOUTH CAROLINA; AND ALL PARTIES AND ATTORNEYS OF RECORD:

Defendants James Timothy Sikes and AMJ Contracting LLC d/b/a NGL & Erosion Control Group, LLC, incorrectly identified as NGL & Erosion Control Group LLC, (hereinafter collectively “Defendants”), by and through their undersigned counsel, hereby invokes the removal jurisdiction of the United States District Court for the District of South Carolina pursuant to 28 U.S.C. §§ 1332 and 1446 based upon the following:

1. Plaintiffs commenced this action by filing the Summons and Complaint with the Court of Common Pleas for Anderson County, State of South Carolina, on or about January 20, 2022.
2. Counsel for Defendants Accepted Service of Plaintiffs’ Summons and Complaint upon Defendants on February 16, 2022.
3. Pursuant to the extension granted by Plaintiff’s counsel, Defendants filed their collective Answer to Plaintiffs’ Summons and Complaint on April 4, 2022.
4. In accordance with 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, documents, and orders which have been served upon Defendants are attached hereto as **Exhibit A**.
5. No other pleadings, process or orders have been filed in the state court action.

6. Venue is proper because this action is currently pending in the Court of Common Pleas for Anderson County, State of South Carolina, located within the above-named Division of this Court. *See* 28 U.S.C. §1441(a).

7. This Notice of Removal is being filed within one year commencement of the action, in accordance with 28 U.S.C. §§ 1332 and 1446(c)(1).

8. The Complaint is a civil action seeking recovery for damages based upon alleged negligence. Under these claims for relief, Plaintiff seeks actual, physical, consequential and monetary damages, costs and expenses, attorneys' fees and pre and post judgment interest.

GROUND FOR REMOVAL – DIVERSITY JURISDICTION

A. Complete Diversity Exists.

9. This action is removable to this Court pursuant to 28 U.S.C. §§ 1441(b) and 1446 in that it is an action over which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332. As demonstrated more fully below, there is complete diversity of citizenship between Plaintiffs and Defendants. Additionally, the amount in controversy exceeds \$75,000, exclusive of interest and costs.

10. Plaintiff is a resident of Anderson County, South Carolina, and is a citizen of South Carolina. Defendant AMJ Contracting LLC d/b/a as NGL & Erosion Control Group, LLC is a corporation formed and existing pursuant to the laws of Georgia with its principal place of business in Winder, Georgia and is therefore a citizen of Georgia. 28 U.S.C. § 1332 (c) (1). Defendant James Timothy Sikes is a resident of Georgia as well, and therefore a citizen of Georgia. *Id.* Accordingly, Defendants are, and were at the time the action was commenced, a Georgia corporation and/or business entity and a Georgia resident. Accordingly, for purposes of 28 U.S.C. § 1332 (diversity jurisdiction), Defendants are not a citizens of the State of South Carolina.

11. Therefore, complete diversity of citizenship existed between Plaintiff and Defendants at the time Plaintiff filed his Complaint, and as of the time of removal.

B. Amount in Controversy

12. To support removal based on diversity jurisdiction, and where it is not facially evident from the Complaint, the Defendants bear the burden of proof that the amount in controversy exceeds the jurisdictional amount. 28 USC § 1446(c)(2)(B). Defendants do not concede the validity of Plaintiffs' claims nor attempts to predict what Plaintiff will recover; the amount in controversy is determined by the amount demanded, not what will ultimately be recovered. *St. Paul Mercury Indem. Co. v. Red Cab Co.* 303 U.S. 283, 289-290 (1938).

13. The amount in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs, as the Complaint alleges actual damages and punitive damages.

14. Based on the foregoing, the evidence demonstrates that the amount in controversy exceeds the jurisdictional minimum of \$75,000, exclusive of interest and costs. *See*

Francis v. Allstate Ins. Co., 709 F.3d 362, 367 (4th Cir. 2013); *Crosby v. CVS Pharmacy, Inc.*, 409 F. Supp. 2d 665, 668 (D.S.C. 2005).

15. Thus, pursuant to 28 U.S.C. §§ 1332, and 1446(c)(1), Defendants may appropriately remove this action because: (1) there is complete diversity of citizenship between Plaintiff and Defendants; and (2) Plaintiff is seeking damages in excess of \$75,000, exclusive of interests and costs.

16. As required by 28 U.S.C. § 1446(d), written Notice of Removal is being given to all adverse parties of record and a copy of the Notice is being filed with the Clerk of the Common Pleas Court of Anderson County, South Carolina.

WHEREFORE, the Defendants, by counsel, give notice that the within civil action, previously pending in the Court of Common Pleas Court for Anderson County, South Carolina, has been removed to the United States District Court for District of South Carolina, Anderson Division.

Respectfully Submitted,
RESNICK & LOUIS, P.C.

s/Christopher L. Murphy
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April 6, 2022
Charleston, South Carolina